

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,187

IN THE MATTER OF:

Served October 8, 2009

JET TOURS USA, INC., WMATC No. 315,)
Investigation of Violation of)
Seating Capacity Restriction)

Case No. MP-2009-110

This matter is before the Commission on respondent's failure to respond to Order No. 12,110, served August 3, 2009, directing respondent to present its vehicles for inspection and produce certain documents within thirty days.

I. BACKGROUND

Certificate of Authority No. 315 authorizes respondent to transport passengers for-hire between points in the Metropolitan District in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Respondent's 2007 annual report lists two 56-passenger buses. Commission staff noticed the discrepancy in 2008 when respondent filed its annual report for 2008 with four 56-passenger buses on it. Staff promptly reminded respondent that operation of 56-passenger buses violates the seating capacity restriction in Certificate No. 315.

Respondent subsequently filed an application to remove the seating capacity restriction. The application was conditionally approved on June 10, 2008, but the reissuance of Certificate No. 315 without a seating capacity restriction was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.¹ Applicant failed to satisfy the conditions for reissuance within the time allotted, thereby voiding the Commission's approval as of December 7, 2008.²

Respondent thereafter filed its 2009 annual report on January 26, 2009. The report lists the four aforementioned 56-passenger vehicles, plus an additional 52-passenger vehicle.

¹ See *In re Jet Tours USA, Inc.*, No. AP-08-089, Order No. 11,405 (June 10, 2008) (conditionally approving reissuance of Certificate No. 315).

² See *id.* (approval of amendment void upon applicant's failure to timely satisfy conditions of reissuance). Respondent presented only two of five vehicles seating more than 15 persons.

The Commission initiated this investigation in Order No. 12,110 to determine whether respondent has violated the seating capacity restriction in Certificate No. 315.

The order directed respondent to produce within fifteen days (1) a complete list of vehicles in its possession, custody, or control; (2) copies of the for-hire registration cards for those vehicles; and (3) a copies of the current safety inspection certificates for those vehicles. The order also gave respondent thirty days to present its vehicles for inspection and produce copies of its business records from January 1, 2007, to the date of the order, August 3, 2009

The order further directed respondent to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District in vehicles seating more than 15 persons, including the driver, and stipulated that Certificate No. 315 would stand suspended and be subject to revocation without further proceeding upon respondent's failure to timely comply with the order.

Respondent has yet to respond to Order No. 12,110.

II. SUSPENSION OF AUTHORITY AND ORDER TO SHOW CAUSE

Pursuant to Order No. 12,110, Certificate No. 315 stands suspended and is subject to revocation for respondent's failure to timely comply with the order.

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.³

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.⁴ Each day of the violation constitutes a separate violation.⁵

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁶ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent;

³ Compact, tit. II, art. XI, § 10(c).

⁴ Compact, tit. II, art. XIII, § 6(f)(i).

⁵ Compact, tit. II, art. XIII, § 6(f)(ii).

⁶ *In re Metro Health-Tech Servs. Inc.*, No. MP-08-057, Order No. 11,588 (Sept. 24, 2008).

rather, they describe conduct marked by intentional or careless disregard or plain indifference.⁷

Respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent and/or revoke Certificate No. 315.

THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 315 stands suspended for respondent's willful failure to comply with Order No. 12,110.

2. That respondent shall have thirty days to show cause why the Commission should not assess a civil forfeiture against respondent for knowingly and willfully violating Order No. 12,110.

3. That respondent shall have thirty days to show cause why the Commission should not revoke Certificate of Authority No. 315 for respondent's willful failure to comply with Order No. 12,110.

4. That respondent may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director

⁷ *Id.*